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10/697,950	10/31/2003	Thomas M. Golner	87304.1980	7624
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BAKER & HOSTETLER LLP Suite 1100 Washington Square 1050 Connecticut Avenue, N.W. WASHINGTON, DC 20036				BHAT, NINA NMN
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS M. GOLNER and PETER C. MICHEL

Appeal 2009-009789
Application 10/697,950
Technology Center 1700

Before BRADLEY R. GARRIS, CHUNG K. PAK, and
LINDA M. GAUDETTE, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-16, 18, and 20-26. We have jurisdiction under 35 U.S.C. § 6.

We REVERSE.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellants claim a gas remover, and a process, for controlling an environment in a load tap changer comprising an orifice or means or step for establishing a substantially continuous outflow of nonreactive gas to expel entrained vapor phase contaminants from the ullage in the load tap changer to the atmosphere (claims 1, 20, and 24).

Representative claim 1 reads as follows:

1. A gas remover to control an environment in a load tap changer, the gas remover comprising:

a source of substantially nonreactive gas at a pressure greater than ambient atmospheric pressure;

a feed line configured to introduce the nonreactive gas into an ullage in the load tap changer;

a sight glass on the load tap changer to permit examination of the inside of the load tap changer, wherein the load tap changer contains mineral oil; and

an orifice configured to establish a substantially continuous outflow rate of nonreactive gas to expel entrained vapor phase contaminants from the ullage in the load tap changer to the atmosphere.

The references set forth below are relied upon by the Examiner as evidence of obviousness:

Yoshiyuki (as translated)	JP 08-22922	Jan. 23, 1996
Magnier	5,946,171	Aug. 31, 1999
Golner	6,581,694 B2	Jun. 24, 2003

The Examiner rejects all appealed claims under 35 U.S.C. § 103(a) as being unpatentable over Yoshiyuki in combination with Golner and further in view of Magnier.

Appellants argue that none of the applied references contains any teaching or suggestion of the independent claim feature, such as an orifice, for establishing a substantially continuous outflow of nonreactive gas to expel entrained vapor phase contaminants from the ullage in a load tap changer to the atmosphere (Br. 12-14).

In contrast to this argument, the Examiner finds that Golner teaches or would have suggested the claim feature under consideration. The Examiner expresses this finding as follows:

Appellants have argued that Golner et al. do not teach a continuous outflow of gas from the system. It is [the] position taken by the examiner that the [sic] from the drawings th[at are] shown in Golner et al. that the gas which is introduced into the system includes means for outputting the nitrogen gas, specifically Golner et al. that a pressure control device (54) pressures the nitrogen at a specific pressure at the input, nitrogen is then delivered to the ullage (18) via manifold (60), output port (68), check valve (74) and bleed valve (26). The pressure in ullage (18) changes due to the oil temperature changes caused by transformer loading changes or to changes in ambient temperature, rain or snow etc. The pressure exceed[s] 2.0 psi, bleed valve (26) is set to vent to bleed nitrogen to the atmosphere and it is [the] position taken by the examiner that the apparatus of Golner et al. is fully atmosphere operating such a continuous outflow of non-reactive gas. [Note Column 4, lines 24-38[.]]

(Ans. 8).

The Examiner's finding is not supported by fact or rationale. The column 4 disclosure cited by the Examiner expressly teaches that the bleed valve 26 vents to the atmosphere only when the pressure exceeds 2.0 psi (Golner col. 4, ll. 31-33). Therefore, we agree with Appellants that, "[i]n

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Golner, a minimum/maximum [pressure] state is maintained, with a non-flow state being the ordinary condition of the system disclosed [such that] substantially continuous outflow of nonreactive gas is nowhere disclosed" (Br. 12).

For this reason, we will not sustain the Examiner's § 103 rejection of the appealed claims.

The decision of the Examiner is reversed.

REVERSED

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